

Truro Planning Board

Minutes of meeting Tuesday, 13 March 2007 – Truro Public Library

Members present: Nicholas Brown, Ansel Chaplin, William Golden, Deborah Paine, Karen Snow, Robert Weinstein, William Worthington (chair).

Others attending: Charleen Greenhalgh, Assistant Town Administrator/Planner; Richard Lavin, Goodheart Properties III, LLC; Chet Lay, Slade Associates; Lauren McKean, Planner, Cape Cod National Seashore (CCNS); George Price, Superintendent, CCNS; Benjamin Zehnder, attorney.

William Worthington called the meeting to order at 7:00 pm.

1. Minutes

Not all members had read the draft minutes for the meeting on 6 March, and draft minutes for the meeting on 27 February have not yet been distributed. All members agreed to move to the next item on the agenda.

2. Wendy Levine, Trustee of Estate of David Teichman Re-endorsement of ANR Plan –

Representative: Chet Lay, Slade Associates

Mr. Brown stepped down at this time. Mr. Lay made copies of the plan available to members of the Board. Mrs. Greenhalgh explained that re-endorsement is required so that the plan can be recorded because the Board signatures are more than six months old. She stated that she had compared the plan distributed this evening with the definitive subdivision plan approved by the Board on 19 October 2004, and there is no difference between them. Ms. Snow moved to re-endorse plan 2004-59; second by Mr. Chaplin. Mr. Worthington asked for questions; there were none. Vote: 6-0-0. Mr. Brown rejoined the meeting.

3. John Arterton – Re-endorsement of ANR plan – Representative: Chet Lay, Slade Associates

Mr. Lay distributed copies of the land courted ANR plan originally endorsed by the Board in January 2001 that was subsequently lost by the land court. Mr. Brown moved to re-endorse ANR 2000-71; second by Mr. Chaplin. Vote: 7-0-0.

4. Peter Poor, Salt Marsh Lane, Covenant Release – Representative: Chet Lay, Slade Associates

Mr. Lay distributed copies of the plan to Board members, and Mr. Chaplin stepped down at this time. In response to Mr. Worthington's question about Lot 4, Mr. Lay responded that Lots 4 and 5 are owned by the Trust. Ms. Snow moved to sign the final release of covenant for the Poor property; second by Ms. Paine. Mr. Worthington asked for questions; there were none. Vote: 6-0-0.

5. Thomas J. Nadeau, Approval Not Required - Plan 2007-005, – Representative: Jason Ellis, J.C. Ellis Design Co.

Mr. Brown stepped down, and Mr. Chaplin rejoined the meeting. Mr. Worthington posed a procedural question regarding the steel rail fence; Mrs. Greenhalgh responded that it is permissible to consider it. Mr. Worthington then asked for questions. Mr. Chaplin stated that perhaps the Board should retain jurisdiction so that the adequacy of the road could be examined if a third lot were to be established. Mr. Worthington asked for additional questions; there were none. Mr. Chaplin moved to approve the plan as presented with the qualification that the Planning Board reserves the right to examine the adequacy of the road for future development of the land; second by Mr. Weinstein. Ms. Snow suggested amending the motion to specifically state future development of lots 6 and 6A and to include the name of the applicant. The amendment was accepted. Vote: 6-0-0. Mr. Brown rejoined the meeting.

6. John Reis, Inc., 450 Route 6 – 10 Lot Definitive Subdivision (Con't from 2/13/07)

Ms. Paine stepped down from the meeting at this time. Mr. Worthington asked if the Board wished to open consideration. Mrs. Greenhalgh explained that the deadline for filing the Board's Decision with the Town Clerk expires on 30 March. The Board agreed to extend the time for the Board to act to 31 May. Ms. Snow moved to continue the hearing to April 10, 2007; second by Mr. Brown. Vote: 6-0-0. Ms. Snow then moved to accept the agreement to extend the deadline for Board action to 31 May. Vote: 6-0-0. Mr. Worthington signed the extension agreement already signed by John McElwee from Felco, representative for Mr. Reis. This will be recorded with the Town Clerk.

7. Goodheart Properties III, LLC, 29 Old Outermost Road, Site Plan Review – (Con't from 2/27/07). Representative: Benjamin Zehnder, attorney for the applicant

Mr. Worthington asked for a motion to open the continuation of the hearing. Mr. Brown and Mr. Weinstein stepped down from the meeting at this time. Ms. Snow moved to open the hearing; second by Mr. Chaplin. Vote: 5-0-0.

Mr. Zehnder apologized for his need to request another continuation, stating that he had completely overlooked the requirements in the Zoning Bylaw regarding existing and planned square footage. He further stated his interpretation of the bylaw: if new construction is not adding more than 1000 square feet or a second story to the aggregate square footage of the existing structure, there is no need to come before the Planning Board. He will be filing a request from the Building Commissioner for an opinion regarding this matter.

Extended discussion followed on whether to open the hearing only to take comments as there were several people present, including representatives from the CCNS, who attended specifically for this matter. Mr. Golden moved to open the hearing to take comments; second by Mr. Chaplin. Mr. Golden asked for an explanation of the regulations, which Mr. Worthington provided, also reading the text of the bylaw. Mr. Golden then clarified his motion to open the hearing only to comments from the public; second by Ms. Snow.

Mr. Chaplin stated his position: the issue is clear that the new structure is more than 1000 square feet. Mr. Worthington restated his view on the bylaw. Mr. Chaplin disagreed, asserting that this plan is for a new structure of more than 1000 square feet; it is not an alteration of an existing structure. Mr. Golden withdrew his motion, and Ms. Snow withdrew her second. Mrs. Greenhalgh urged that if the hearing were to be continued that it be continued to a date certain.

Ms. Snow asked Mrs. Greenhalgh for her opinion as to whether it is solely the purview of the Building Commissioner to interpret the Zoning Bylaw; Mrs. Greenhalgh replied in the affirmative. Ms. Snow then moved to open the hearing only for public comment; second by Mr. Worthington. Ms. Paine stated that she wanted to hear the whole discussion at one meeting and that the CCNS representatives have not been asked if they could be present on another date. The Board voted on Ms. Snow's motion: 0-5-0 (motion defeated). Ms. Paine moved to continue the hearing to 27 March; second by Ms. Snow. Vote: 5-0-0.

8. Discussion of issues related to the Cape Cod National Seashore (CCNS)

Mr. Price began the discussion by providing some background on the history of the creation of CCNS. He stated that when it was created, CCNS was a new model of shared participation between the federal government and the Towns (Eastham, Wellfleet, Provincetown and Truro) to preserve the cultural heritage of the area, while also stating that zoning bylaws are the purview of the Towns. Lauren McKean explained the organization of a Roundtable as an informal group including representatives of CCNS and the Towns, planners, Zoning Board of Appeals members,

and others. She explained that after extended discussion on the feasibility of CCNS working with the Towns as a group, it was agreed that CCNS would work with each Town individually.

Mr. Brown spoke to the history of the relationship between the Park (CCNS) and the Towns and of his desire to rekindle the spirit of joint participation. Mr. Weinstein spoke of his longstanding relationship and involvement with the Park, first as a member and then as chair of the Truro Zoning Board of Appeals, and his belief that confusion on roles arose out of the 1985 Management Plan for CCNS.

Mrs. Greenhalgh stated that the problem is not so much local zoning as it is State law and that there is a mechanism available to think outside the box regarding zoning, the Cape Cod Commission provision for a DCPC (District of Critical Planning Concern.)

Mr. Chaplin stated that he has a slightly different take on these issues, the gist being that the intent of the law that created the CCNS was that all private property within it would eventually become public land, federally owned. He continued, saying that zoning is not the most effective tool to do this and that it is the responsibility of the federal government, not CCNS, to make it work. Mr. Weinstein took very strong exception to Mr. Chaplin's interpretation stating that the CCNS has always included commercial property, businesses, and private residential properties.

It was agreed by all that an extended joint meeting of the Planning Board and CCNS representatives to further discuss issues of mutual concern would be beneficial. The Planning Board will use their work session on 20 March to formulate discussion points for the joint meeting that will take place on Tuesday, 15 May at 7:00 pm.

6. Draft procedure for setting Planning Board agenda

The Board discussed the draft and made revisions. Mr. Weinstein then raised a question about items he had sent to the chair over a week ago but that did not appear on the agenda. He stated that an issue of particular concern to him is related to recusal and the letter he received on this topic from the Ethics Commission, but that there may be other issues that are just as important to other members. He then offered his review of the recent public hearing on the affordable housing bylaw, seeing it as a missed opportunity for the Planning Board, for which he holds the chair responsible. Discussion on the public hearing ensued.

Mr. Chaplin stated that he is still uncomfortable with the requirement for agenda items to be submitted by noon one week before the meeting and would like to have more flexibility for putting items on the agenda. Ms. Snow spoke to needing more than a couple of days to prepare for a meeting, and Ms. Paine stated that she needs as much time as possible, not just a weekend. Mr. Golden stated that this is an issue that needs more discussion and that he wants more flexibility for adding items to the agenda to encourage more discussion. Mr. Golden then moved to adjourn; second by Mr. Worthington. Vote: 6-1-0 (Ms. Paine voting against). Ms. Paine stated that the issue needs further discussion.

The meeting adjourned at 9:15 pm.

Respectfully submitted,

Sharon A. Sullivan, Secretary